

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Thoman et al
Serial Number 10/056,812
Filed: January 24, 2002
For: Lightweight Thermal Heat
Transfer Apparatus



Art Unit: 1774
Examiner: Tho Duong

Commissioner of Patents and Trademarks
Washington, D.C. 20231

**PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON
FAILURE TO RECEIVE OFFICE ACTION**

1. This Petition is hereby filed in response to a dismissal of a (First) Petition to Withdraw Holding of Abandonment based on failure to receive Office Action. Such dismissal mailed May 23, 2006 and providing a two month time period to file a further petition. This petition was filed on July 18, 2006 and is filed prior to the July 23, 2006 deadline.

Applicant hereby petitions the Commissioner of Patents under 37 CFR 1.181 to withdraw the holding of abandonment. Facts related to a restriction and related election requirement:

2. Mr. Ron Billi (Patent Counsel) became aware of an Office Action after Rosedale Yannayon (Legal Assistant) received a phone call from Mr. Tho Duong (Examiner) on April 25, 2005 regarding an application being abandoned. Mr. Billi checked the case file and did not locate the Office Action that was allegedly sent on February 4, 2004. It was therefore concluded that the Office Action was never received.

3. Mr. Ron Billi (Patent Counsel) discussed the case further with Mr. Tho Duong (Examiner) on April 27, 2005 and Mr. Billi understood that a copy of the Office Action would be forwarded to the office; however a copy was not received. On July 14, 2005, Ms. Rosedale Yannayon (Legal Assistant) called Mr. Tho Duong (Examiner) to follow-up and obtain a copy of the February 4, 2004 Office Action. Mr. Tho Duong (Examiner) faxed a copy of the Office Action to our office at fax number (301) 342-1840.
4. Applicant's office handles a number of patent applications on a continuous basis including some PCT and national filings and files and prosecutes those applications on a regular basis. The designated correspondence address for all such applications is Customer Service Number 21124 (Naval Air Warfare Center Aircraft Division, Office of Counsel, Bldg. 435, Suite A, 47076 Liljencrantz Road, Patuxent River, Maryland 20670). The Office of Counsel at the Naval Air Warfare Center Aircraft Division, Patuxent River, Maryland has a general procedure in place for the delivery and distribution of all mail. The mail procedure in place was as follows:
 1. U.S. mail is received at a central postal location at Patuxent River, MD.
 2. The U.S. mail is sorted and delivered twice a day by central mail personnel.
 3. The central mail personnel place the incoming mail in the Legal Office incoming mailbox (located in Building 435, Suite A).

4. The Legal Assistant sorts the incoming mail each day after delivery and distributes the mail by placing it in individual mailboxes designated by individual's names.
 5. Each individual of the Office of Counsel, Naval Air Warfare Center Aircraft Division, Patuxent River, Maryland checks his or her individual mailbox and retrieves their incoming mail.
 6. All mail addressed to Mr. Ron Billi and Patent related is placed in Mr. Ron Bill's individual mailbox for retrieval by Mr. Ron Billi.
5. Mr. Ron Billi (Patent Counsel) was receiving all patent-related correspondence at and around the January-August 2004 timeframe. The procedure in place for receiving all patent related correspondence within the Office of Counsel, Naval Air Warfare Center Aircraft Division, Patuxent River, Maryland was and is as follows:
1. Incoming patent-related correspondence is retrieved from the individual's mailbox within the Office of Counsel. In this case, Mr. Billi picks up his own mail that is delivered in his mailbox.
 2. Incoming United States Patent and Trademark Office mail is opened and reviewed.
 3. The original United States Patent and Trademark Office mail is punched by a two-hole punch and placed in the right side of the case file. Each patent case is retained in a 3-section file folder. The left side of the file contains all internal correspondence. The center section of the file contains all correspondence submitted to

the U.S. Patent and Trademark Office. The right side of the file contains all correspondence received from the U.S. Patent and Trademark Office.

6. Applicant never received the February 4, 2004 Office Action. Other correspondence had been received from the U.S. Patent and Trademark Office regarding this case, namely:

1. U.S. Patent and Trademark Notice of Recordation of Assignment Document (4 pages) dated April 1, 2002.
2. U.S. Patent and Trademark Notice Updated Filing Receipt, Confirmation No. 3394, (2 pages), Date Mailed May 1, 2002.
3. U.S. Patent and Trademark Filing Receipt, Confirmation No. 3394, (2 pages) Date Mailed February 22, 2002.
4. U.S. Patent and Trademark Formalities Letter, Notice to file Corrected Application Papers, Confirmation No. 3395, (1 page), Date Mailed February 22, 2002.
5. U.S. Patent and Trademark Notice of Publication of Application, Confirmation No. 3394 (1 page).

7. All of the above documents were located in the right hand side of the case file
8. Practitioner attests that he has made a thorough search of the file jacket and docket records and such search indicates that the office communication was not received.

9. Practitioner has attached to this Petition a copy of the docket record (i.e. the cover of the file jacket) where the office communication would have been entered had it been received and docketed.


10. Copies of 1-5 are attached.

11. Applicant has included herein the required response under 35 U.S.C. 121 to such non-received Office Action, i.e. an election of Invention I, Claims 1-17 for examination.

12. Since the Office Action regarding a requirement for restriction and to make an election was never received, applicant requests the Commissioner to withdraw the holding of abandonment for failure to receive such Office Action.

Respectfully submitted,

Ron Billi, Reg. No. 34,085
Patent Counsel



Date: 7-17-06

NADC 2044

73962

Inventor Steven Thomas, Mary Donnellan + Ronald TRABACCO

Serial No. _____ Filed _____

CONTINUING CASE _____

PARENT CASE _____

Assignee _____

Assignment Recorded _____ Reel _____ Frame _____

Mark
GUT - prepared Application

OFFICE ACTIONS

AMENDMENTS

6 Sep 91 - Invention Disclosure

8 Jan 92 - Let of Rights Ltr

31 Jan 02 - Application Mailed

5 Apr 02 - Correction of
Application Papers Mailed

4-25-05 Otho Duong, USPTO

Called re status, Suys

Office Action dtd Feb 2004

Sent By USPTO - no reply

From us (571) 272-4793

7-14-05 - Otho Duong to

Fax copy of 2/2004

Office Action

Per Ron Prepare Petition

TO Revive Un Avoidable Abandon

5-1-06 - Petition to Revive

5-1-06 - Office Action Response

5-26-06 - PTO reply - Petition

Dismissed - 2 mos to

Respond - due 23 Jul 06

CASE
SERIAL NO.TITLE Highly Conductive Thermal Heatsinks
INVENTOR Thomas, S. Donnellan M + Trabacco R.

R.

PATENT

Allowed _____ Final Fee Paid _____

Patent No. _____ Date _____

PRIORITY _____ OF _____ FILED _____ ACK: _____